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County of San Francisco

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

AYMAN FARAHAT; JOYCE FERMAN; DAVID HALL; DAVID QUINBY; and HARSHIL VED,

Plaintiffs,

v.

CITY AND COUNTY OF SAN FRANCISCO, a municipal entity,

Defendant.

Case No.: **CGC-24-617515**

VERIFIED COMPLAINT FOR:

1. **Enjoinder of Public Nuisance (Cal. Civ. Code §§ 3490 *et seq.*) relating to prostitution;**
2. **Enjoinder of Private Nuisance (Cal. Civ. Code §§ 3501 *et seq.*) relating to prostitution;**
3. **Enjoinder of Public Nuisance (Cal. Civ. Code §§ 3490 *et seq.*) relating to loitering, public intoxication, illegal drug use, and public urination.**

VERIFIED COMPLAINT

1. Plaintiffs Ayman Farahat, Joyce Ferman, David Hall, David Quinby, and Harshil Ved file this Complaint against Defendant City and County of San Francisco (the "City") for injunctive relief and allege as follows:

INTRODUCTION

2. Since the Gold Rush of 1849, San Francisco has been at the forefront of American technological and social progress. A home to innovators and changemakers, the movements and products incubated within San Francisco's city limits have reshaped the United States and the world.

3. But now, California's "Golden City" is at the vanguard of a very different development: an epidemic of sex trafficking, prostitution, and other public disorder.

4. Although reported crime in San Francisco has been decreasing—a statistic touted by City officials—that decrease has resulted directly from residents fleeing the City and because many residents no longer report certain crimes like sex trafficking and prostitution.

5. San Francisco's government has failed to respond to this crisis and failed to enforce its laws against sex trafficking and prostitution, as well as other laws against public disorder.

6. In particular, the City has allowed sex trafficking and prostitution in residential neighborhoods on land that it controls. These crimes are nuisances, and any private landowner would be liable for both public and private nuisance under the same circumstances. No law or principle immunizes the City from liability in similar circumstances.

7. The City has also allowed loitering, public intoxication, public urination, and other offenses against the public order to occur regularly in residential neighborhoods on land that it controls. These conditions also create nuisances for which any private landowner would be liable.

8. Plaintiffs all live and work on Shotwell Street in the Mission District, between 20th and 21st Streets. On this street, sex trafficking and prostitution, with full knowledge of the City, have become so widespread that Plaintiffs have lost the full use and enjoyment of their homes and businesses.

9. On the corner of 21st Street and Shotwell is the Jose Coronado Playground, which is a recognized City park.

10. On that street corner and inside the park, a number of individuals loiter throughout the day, engage in public intoxication, and blare loud music. They also routinely urinate in public, leave evidence of illegal drug use, and some threaten individuals in the neighborhood.

11. As a result, Plaintiffs have lost the use and enjoyment of their neighborhood park.

12. Plaintiffs bring this suit for private and public nuisance against the City and County of San Francisco to compel the City and County of San Francisco to comply with the law and maintain the public sidewalks, easements, streets, and parks within its control between 19th and 21st Streets on Shotwell, and particularly between 20th and 21st Streets, free of sex trafficking and prostitution, which constitute public and private nuisances, and free of other nuisance conditions.

JURISDICTION AND VENUE

13. Venue is proper in this Court pursuant to California Code of Civil Procedure Section 394 because Defendant the City and County of San Francisco is situated in this district. Venue is further proper in this Court because the omission or commission of acts and violations of law by Defendant as alleged in this Complaint occurred within the City and County of San Francisco, State of California.

14. Jurisdiction is proper in this Court because Defendants have contributed to the creation of a public nuisance in California and Plaintiffs have the right and authority pursuant to California Code of Civil Procedure Section 731 to seek abatement of that nuisance.

PARTIES

Plaintiffs

15. Ayman Farahat lives on Shotwell Street between 20th and 21st Streets in San Francisco.

16. Joyce Ferman lives on Shotwell Street between 20th and 21st Streets in San Francisco.

17. David Hall owns Shotwell's Bar/Saloon, located at 3349 20th Street, San Francisco, CA 94110, on the corner of 20th Street and Shotwell Street. He also resides in San Francisco.

18. David Quinby lives near the corner of 20th Street and Shotwell Street in San Francisco.

19. Harshil Ved lives on Shotwell Street between 20th and 21st Streets in San Francisco.

Defendant

20. Defendant City and County of San Francisco is a municipal entity in the State of California.

FACTUAL ALLEGATIONS

21. On Shotwell Street between 19th and 21st Streets, there is an epidemic of sex trafficking and prostitution, as exemplified by the following photographs:

22. While the area has experienced problems with sex trafficking and prostitution in the past, the problem became exponentially worse when the City blocked off nearby Capp Street, where the problem had been focused, in early 2023.

23. Instead of solving the problem, the City simply moved the nuisance to Shotwell Street between 19th and 21st Streets.

24. Residents have been propositioned, threatened, and physically attacked, and have had their property defiled and damaged as a result of this nuisance.

25. The sex trafficking and prostitution has also led to a dramatic increase in late-night and early-morning traffic on this block.

26. The increased traffic is accompanied by loud noises, including blaring loud music, from customers seeking prostitutes ("johns").

27. The increased traffic and drunk driving as a result of the prostitution has also resulted in several of the neighborhood's residents having their cars sideswiped or otherwise damaged.

28. In Noe Valley, which is served by the same police station as Plaintiffs' neighborhood in the Mission, similar crimes are 17 percent more likely to be cleared than in Plaintiffs' neighborhood.

29. Ayman Farahat lives on Shotwell Street between 20th and 21st Streets in San Francisco.

30. Some of Mr. Farahat's family members have been propositioned in front of their home.

31. The increased traffic and loud music have directly led to a reduction in Mr. Farahat's sleep quality and quality of life.

32. Traffic accidents in the Mission District have also increased since the explosion in prostitution and sex trafficking, including on Shotwell Street.

33. One sex worker recently threated to have her pimp shoot Mr. Farahat's wife.

34. Mr. Farahat used to call the police, but he stopped because, despite his phone calls, officers would not show up.

35. Mr. Farahat and the other plaintiffs have discovered sexual paraphernalia, including used condoms, in his yard, and throughout the neighborhood:

36. Mr. Farahat also has tenants next door and is regularly concerned that they will leave. His property value has already dropped as a result.

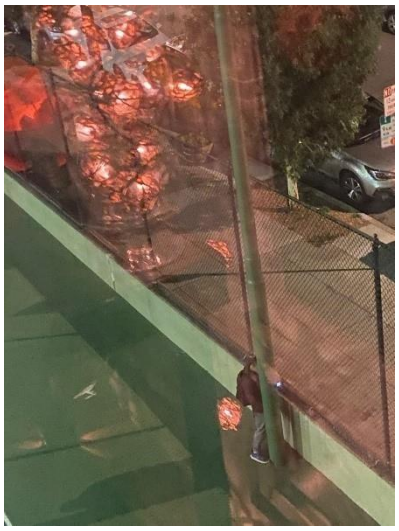
37. Mr. Farahat also regularly observes men publicly drinking at the Jose Coronado Playground and on the sidewalks in front of the park, which is right in front of his house.

38. For example, on February 3, 2024, Mr. Farahat called and reported drinking at Jose Coronado Playground. The park ranger who answered the phone told him to stop being so vigilant.

39. Mr. Farahat has routinely seen evidence of drug use at Jose Coronado Playground including drug paraphernalia such as needles.

40. Mr. Farahat also regularly observes men publicly urinating at the Jose Coronado Playground.

41. For example, on a single day in October, Mr. Farahat took photographs of three different men urinating near a pole on the basketball court:



42. When Mr. Farahat reported the activities to a parks and recreation officer, Sergeant Bishop, he was told he should be thankful the department even responded to his calls.

43. On April 15, Mr. Farahat and Plaintiff Joyce Ferman wrote to Captain Thomas Harvey of the San Francisco Police Department reiterating complaints they made to the Department over the weekend of April 12, 13, and 14.

44. On Friday April 12 Mr. Farahat and Ms. Ferman reported loud music coming out of a large boombox on the sidewalk in front of the playground, where adult men were loitering. (Mr. Farahat took a photograph of the boombox.)

45. Mr. Farahat has seen these same individuals loiter and blare music for months and longer.

46. On Saturday April 13 these neighbors made repeated calls due to the exceedingly loud music from the boombox. A police cruiser came by at some point but no action was taken.

47. On Sunday, April 14, Mr. Farahat and Ms. Ferman called numerous times; it took the police over four hours to respond, and no action was taken.

48. They also reported (and took a video of) a motorcycle revving its engine in a loud and disruptive manner *on the sidewalk* in front of the park. In these incidents, there were numerous adult males loitering and drinking in public, of which the following photographs are illustrative:

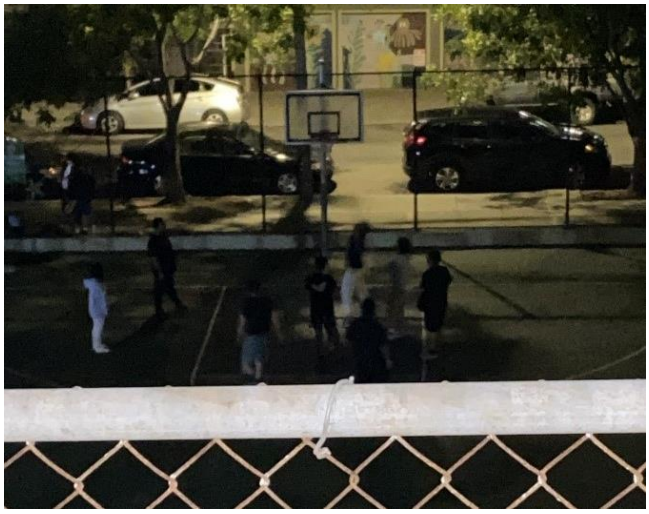
49. In some of these photos, unlawful obstructions such as tent encampments are also visible:

50. As Mr. Farahat and Ms. Ferman wrote, "[W]e have been subjected to loud music from noon till 8 p.m Friday, Saturday and Sunday. We have had drunk intoxicated individuals race motorcycles on our sidewalks. This is not an isolated incident and happens every weekend without fail. Every time we get the same response, this is not a high priority. In the odd times that the police show up, they don't even care to get out of their vehicles and it is clear that they show up not to address the situation and help the community but to cross a check mark and say they responded."

51. Although the City recently placed signs in the area indicating that public drinking is illegal, the signs are ignored, even defaced, and public intoxication has continued unabated:

52. Public drinking also occurs on the sidewalks outside the park:

53. Loitering occurs within Jose Coronado Playground not only all hours of the daytime, but also after the park has closed:



54. As a result, Mr. Farahat and his wife cannot use the park, even though it is adjoining their home.

55. Plaintiff Joyce Ferman is a retired teacher. She moved to the Mission District in 2008.

56. For the past several years, prostitution has become an increasing problem on her block on Shotwell Street between 20th and 21st Streets.

57. Ms. Ferman's next-door neighbors had to move out of the neighborhood after their young daughter was propositioned in the early morning on the way to school by adult males seeking sex.

58. Ms. Ferman has observed that some prostitutes are very young and are potentially being trafficked.

59. Ms. Ferman has observed numerous fights break out between pimps, prostitutes, and/or customers, at all hours of the evening and night. Ms. Ferman recently filmed a fight between two prostitutes in the middle of the day. She heard fighting and screaming and one of the prostitutes was hit and kicked in the head. The perpetrator was ultimately arrested, but the City has not further responded to the neighborhood's concerns.

60. Ms. Ferman is frightened of the pimps.

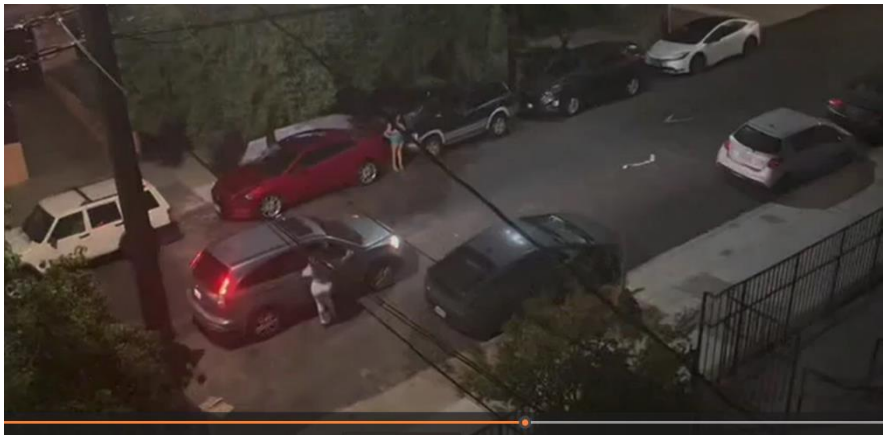
61. Ms. Ferman has discovered sexual paraphernalia, including used condoms, in her yard.

62. Traffic has become a major issue as a result of the prostitution on this block. Beginning around 11:00 PM, there are long lines of cars waiting to get onto the street; the drivers also speed on the street and cause numerous accidents.

63. As a result, several residents' cars have been sideswiped, including Ms. Ferman's.

64. "At night," Ms. Ferman says, "it becomes like the Las Vegas strip."

65. Ms. Ferman has captured videos of solicitation, of which the following are snapshots:



66. Ms. Ferman has heard loud radios and boomboxes from the individuals looking for sex, particularly between the hours of 11:00 p.m. and 2:00 a.m. The traffic and noise affect Ms. Ferman's sleep and quality of life.

67. These problems are worse on the weekend, when Ms. Ferman sees dozens of prostitutes walking down the middle of the street.

68. Ms. Ferman also witnesses a group of publicly intoxicated adult males in and around Jose Coronado Playground on a daily basis.

69. These men blare loud music all day long.

70. These individuals also urinate at the park and otherwise in public.

71. The area often smells like urine as a result.

72. Ms. Ferman is afraid to walk by this group of individuals and has lost use and enjoyment of the neighborhood park as a result.

73. When Ms. Ferman calls the police, either because of the sex work or the disturbances near Jose Coronado Playground, they routinely tell her that her concerns are not a priority.

74. Plaintiff David Hall has been the owner of Shotwell Bar for 17 years.

75. He has observed that prostitution and pimping on Shotwell Street between 20th and 21st Streets has gotten progressively worse over the last nine years or so, with a brief respite during the pandemic.

76. Mr. Hall has observed that when the City blocked off Capp Street in early 2023, prostitution and pimping significantly worsened on Shotwell between 19th and 21st Streets.

77. For example, the following photo is from Mr. Hall's surveillance camera, which captured an apparent prostitute soliciting sex outside of his bar:

78. He has experienced pimps and prostitutes being aggressive.

79. Mr. Hall has received at least five death threats from prostitutes and pimps over the last several years.

80. Mr. Hall has called the police about these death threats but the police have told him they are unable to help him because "nothing has happened yet."

81. When police do respond after complaints, they only arrive several hours later.

82. Mr. Hall shuts down his bar by midnight because of the prostitution and pimping on the street. Mr. Hall does not want his customers to experience violence or solicitation.

83. Some of Mr. Hall's customers have become frightened because of the conditions on the street, and some have left the neighborhood.

84. In one incident, Mr. Hall recalls that one of his customers who lived in the neighborhood reported to him that a john masturbated in front of her and her kids. The family moved away from the neighborhood and his customer no longer frequents his bar.

85. Occasionally private organizations will hand out condoms on the street. They sometimes block the ADA ramp that provides access to Mr. Hall's bar.

86. Prostitutes have had visible and audible fights in front of Mr. Hall's bar and his customers.

87. Prostitutes attempt to use the restrooms at Mr. Hall's bar, disturbing his business and his patrons.

88. Plaintiff David Quinby has lived on Shotwell Street for 33 years.

89. There has always been some amount of prostitution on the street, but in the past few years Mr. Quinby observes that the scene has become violent.

90. Mr. Quinby believes that "they've just taken over" the entire street.

91. He observes that now the prostitution is accompanied by partying, screaming, violence, and threats.

92. One prostitute recently smashed Mr. Quinby's head with a brick, scarring him.

93. A group of prostitutes also attacked Mr. Quinby as he was approaching his driveway. Mr. Quinby had to defend himself with a chair.

94. Mr. Quinby has been attacked numerous other times because he speaks out about the prostitution.

95. Mr. Quinby's truck has been damaged several times as a direct result of attacks against him and the increased activities associated with the sex work on his street.

96. Prostitutes occasionally stand on and solicit from the stoop of Mr. Quinby's home. Prostitutes and johns have also engaged in sex acts in his stairwell.

97. Mr. Quinby estimates there are about two dozen prostitutes and pimps every night on Shotwell Street between 19th and 21st Streets.

98. Johns blare their music as they drive around the street looking for prostitutes.

99. Mr. Quinby has observed that the situation deteriorated significantly when metal barriers were installed by the City on Capp Street between 18th and 21st Streets, which now make it difficult to drive and solicit sex on Capp Street.

100. Mr. Quinby lives in a four-unit building, occupying one of the units. Two of the units are vacant; he has been unable to rent them despite showing the units to dozens of individuals. One of the units was successfully rented at a significantly reduced rent.

101. Instead of enforcing laws and regulations against public disorder, the City has simply moved the prostitution and pimping problem to Shotwell Street.

102. Plaintiff Harshil Ved moved to the Mission District in mid-2020.

103. Previously, Mr. Ved had lived in the South Beach and Dolores Park areas, and never faced significant problems with public disorder or violations of the criminal law.

104. Mr. Ved has witnessed a dramatic increase in prostitution and pimping since 2021.

105. The prostitution and pimping have created a significant increase in traffic as johns look to solicit sex.

106. In one incident, Mr. Ved's car, which was parked in front of his home, was totaled when a john driving down Shotwell Street smashed into it.

107. Mr. Ved has suffered financially as a result.

108. In an even more recent incident in July, Mr. Ved's car was once again sideswiped and damaged while it was parked in front of his home.

109. Mr. Ved called the police, but they said they would not investigate and any formal complaint would be solely for purposes of obtaining an insurance payout.

110. Mr. Ved has observed drunk driving and loud music from johns soliciting sex.

111. Last year, Mr. Ved's friends were solicited for sex as they were coming over to his home.

112. Mr. Ved no longer feels comfortable inviting friends to his house.

113. The loud noises, shouting, and music disrupt Mr. Ved's sleep and have disturbed Mr. Ved's quiet enjoyment of his home.

114. Mr. Ved is afraid to leave his home in the evening because prostitutes have threatened violence against him.

115. Mr. Ved has also experienced numerous problems around the Jose Coronado Playground.

116. Mr. Ved routinely observes loitering, drinking, loud noises, and a general ruckus in and around the park.

117. As a result, Mr. Ved and his wife have never entered the park.

118. Mr. Ved and his wife would use the park if they were not fearful of the individuals loitering and drinking.

119. Mr. Ved and his wife also see drug paraphernalia such as needles in the sidewalks outside the park.

120. Mr. Ved has reached out multiple times to the City about these problems. Rarely has he received a response.

COUNT I – ENJOINDER OF PUBLIC NUISANCE

(Relating to prostitution)

121. Plaintiffs restate the above allegations as though set forth fully here.

122. The California Civil Code defines nuisance as follows:

> Anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of . . . any public park, square, street, or highway.

Cal. Civ. Code § 3479.

123. A public nuisance is "one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal." *Id.* § 3480.

124. Sex trafficking and prostitution are "indecent" to the senses, "injurious to health," and "interfere[s] with the comfortable enjoyment of life or property."

125. California law specifically provides that "[e]very building *or place* used for the purpose of . . . lewdness, assignation, or prostitution, and every building *or place* in or upon which acts of . . . lewdness, assignation, or prostitution, are held or occur, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance." Cal. Pen. Code § 11225(a)(1) (emphases added).

126. California law also specifically provides that "any citizen of the state resident within the county in his or her own name may, maintain an action in equity to abate and prevent the nuisance and to perpetually enjoin the person conducting or maintaining it, and the owner, lessee, or agent of the building or place, in or upon which the nuisance exists, from directly or indirectly maintaining *or permitting it*." *Id.* § 11226 (emphasis added).

127. Additionally, "[i]t is well settled that a municipal corporation having the exclusive care and control of the streets, is obliged to see that they are kept safe for the passage of persons and property, and to abate all nuisances that might prove dangerous; and if this plain duty is neglected, and any one is injured, it is liable for the damages sustained." *City of Chicago v. Robbins*, 67 U.S. 418 (1862); *see also Peters v. City & Cnty. of San Francisco*, 41 Cal. 2d 419, 429 (1953) (City has "duty to keep sidewalks in safe condition [and] is directly liable to pedestrians for failing to correct a dangerous condition of which it had notice. . . ."), *superseded on other grounds by statute as noted by DiCampli-Mintz v. Cnty. of Santa Clara*, 55 Cal. 4th 983, 997 n.11 (2012).

128. The City "is not relieved of its responsibility in this regard merely because the condition was created or maintained" by a third party who may also be liable. *Peters*, 41 Cal. 2d at 429.

129. Further, as possessor of San Francisco's public land, the City has a duty to abate and not contribute to nuisances found thereon. The California Civil Code provides that "[e]very successive owner of property who neglects to abate a continuing nuisance upon, or in the use of, such property, created by a former owner, is liable therefor in the same manner as the one who first created it." Cal. Civ. Code § 3483; *see also* Cal. Penal Code § 372 ("Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who

willfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a misdemeanor.").

130. California follows the Restatement (Second) of Torts' approach to nuisance law. *Benetatos v. City of Los Angeles*, 235 Cal. App. 4th 1270, 1283 (2015); *City of Los Angeles v. San Pedro Boat Works*, 635 F.3d 440, 452 (9th Cir. 2011).

131. The Restatement provides that "[a] possessor of land upon which a third person carries on an activity that causes a nuisance is subject to liability for the nuisance if it is otherwise actionable," and if the possessor "knows or has reason to know that the activity is being carried on and that it is causing or will involve an unreasonable risk of causing the nuisance," and further if the possessor either "consents to the activity or fails to exercise reasonable care to prevent the nuisance." Restatement (Second) of Torts § 838 (1979).

132. California courts have recognized that "under the common law, a landowner's liability for a public nuisance could result from the failure to act as well as from affirmative conduct." *City of Modesto Redevelopment Agency v. Superior Ct.*, 119 Cal. App. 4th 28, 37, 13 Cal. Rptr. 3d 865, 871 (2004), *as modified on denial of reh'g* (June 28, 2004).

133. The existence of the nuisance is obvious and known to Defendant through its own inspections and citizen reports.

134. The City has further consented to the nuisance activities on its lands.

135. Alternatively, the City has failed to take reasonable steps to prevent the nuisance.

136. Defendant has acted unlawfully by permitting prostitution and solicitation to occur on property within its control on Shotwell Street between 19th and 21st Streets.

137. Defendant has acted unlawfully by failing to satisfy its affirmative duty to maintain the safe condition of San Francisco's public rights-of-way as described herein.

138. And under the theories of liability offered by the Restatement (Second) of Torts, Defendant has also broken the law by abdicating its responsibility to prevent nuisances on the public land it possesses.

139. A person may bring an action for public nuisance if the nuisance "is specially injurious to himself . . . ." Cal. Civ. Code § 3493.

140. Further, "any citizen of the state resident within the county" may bring an abatement action for illegal public nuisance based on prostitution or similar activities. Cal. Pen. Code § 11225.

141. Each Plaintiff has endured substantial and unreasonable disruptions in the enjoyment of their property as a result of the public nuisance. Plaintiffs have suffered threats to their physical safety; have suffered trespasses during which sex acts occur on their properties; have found sexual paraphernalia on their properties; have suffered pecuniary harm due to the hazardous driving associated with prostitution at night; have suffered reduced sleep due to the screaming and noises in the late night and early morning hours; or have suffered a loss of customers. The impacts have been particularly acute on Plaintiffs' children and other young residents of the neighborhood.

142. Because of their proximity to the nuisance, all Plaintiffs have been damaged in a way specially injurious to themselves.

143. Plaintiffs are all residents of the City and County of San Francisco and are citizens of the State of California.

144. Plaintiffs seek injunctive relief to order Defendant to abate the nuisance.

COUNT II – ENJOINDER OF PRIVATE NUISANCE

(Relating to prostitution)

145. Plaintiffs restate the above allegations as though set forth fully here.

146. Each Plaintiff owns, leases, occupies, or otherwise controls all or a portion of the home or business in San Francisco identified herein.

147. Defendant's actions and inactions have created or permitted a condition to exist that is harmful to Plaintiffs' health; indecent and offensive to the senses; drive customers away from Plaintiffs' businesses; expose Plaintiffs to the threat of crime; and decreases property values, as alleged above.

148. Defendant's conduct has been and is intentional and unreasonable, or unintentional but negligent or reckless.

149. No Plaintiff consented to Defendant's conduct; each was harmed. Defendant's conduct was a substantial factor in causing the harm, and the seriousness of the harm outweighs any public benefit of such conduct (which is none).

150. Plaintiffs seek injunctive relief ordering Defendant to abate the nuisance.

COUNT III – ENJOINDER OF PUBLIC NUISANCE

(Relating to loitering, public intoxication, illegal drug use, and public urination at Jose Coronado Playground)

151. Plaintiffs restate the above allegations as though set forth fully here.

152. The California Civil Code defines nuisance as follows:

> Anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of . . . any public park, square, street, or highway.

Cal. Civ. Code § 3479.

153. A public nuisance is "one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal." *Id.* § 3480.

154. In California, "[b]locking a public sidewalk constitutes a public nuisance per se." *Kempton v. City of Los Angeles*, 165 Cal. App. 4th 1344, 1348, 81 Cal. Rptr. 3d 852, 855 (2008).

155. Obstructing any other part of a road or street or part of a public park or square is also a public nuisance under the plain language of California Civil Code § 3479.

156. Further,"[t]he illegal sale of controlled substances" is a nuisance per se under California law. Cal. Civ. Code. § 3479.

157. So too is "[e]very building or *place* used for the purpose of unlawfully selling, serving, storing, *keeping*, manufacturing, or giving away any controlled substance, precursor, or analog . . . a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered . . . ." Cal. Health & Safety Code § 11570 (emphasis added).

158. Moreover, California courts have recognized the following as public nuisances: (1) "[i]nterference with the ingress and egress to and from a public street . . . ," *Kempton*, 165 Cal. App. 4th at 1349; (2) public urination, *People v. McDonald*, 137 Cal. App. 4th 521, 40 Cal. Rptr. 3d 422 (2006); (3) gang activity, *People ex rel. Gallo v. Acuna*, 14 Cal. 4th 1090, 929 P.2d 596 (1997); and

(4) fire hazards, *San Diego Cnty. v. Carlstrom*, 196 Cal. App. 2d 485, 491, 16 Cal. Rptr. 667 (Ct. App. 1961).

159. "Aggravation caused by blasting noise and other activities that create interferences to the use and enjoyment of nearby property . . . presents a quintessential nuisance case." *Ghysels v. Interfraternity Council*, No. A131500, 2013 WL 179168, at *9 (Cal. Ct. App. Jan. 17, 2013).

160. "[T]he public abuse of 'intoxicating liquor,'" is "in the nature of a public nuisance." *People v. Knutson*, 60 Cal. App. 3d 856, 865, 131 Cal. Rptr. 846, 852 (Ct. App. 1976).

161. Defendant has distributed and funded the distribution of drug paraphernalia to narcotics users throughout the City. *See, e.g.*, Erica Sandburg, *Harm Production in San Francisc*o, City Journal (Feb. 14, 2019), https://www.city-journal.org/article/harm-production-in-san-francisco (noting that at one time, San Francisco's Department of Public Health distributed 4.45 million needles annually).

162. Defendant has accomplished this in part through a $42 million contract with the San Francisco AIDS Foundation funding the distribution and disposal of syringes through 2026. S.F. AIDS Foundation Contracts with DPH, as of 1/13/22, https://www.sf.gov/sites/default/files/2022-08/SFAF%20Contracts%20for%20020122%20HC%20-%20FY2122%20%281%29.pdf.

163. On information and belief, this paraphernalia has exacerbated San Francisco's public nuisance problem by encouraging the sale and use of controlled substances on the City's streets, including at the Jose Coronado Playground.

164. Many of the city-purchased needles have been littered on public land, contributing to unsafe conditions on the City's sidewalks. Phil Matier & Andy Ross, *Those needles littering the streets? The city gave them out*, San Francisco Chronicle (May 8, 2018) https://www.sfchronicle.com/bayarea/matier-ross/article/Those-needles-littering-the-streets-The-city-12898656.php (noting that of the 400,000 needles per month San Francisco distributed over a period in the 2010s, only about 246,000 were properly disposed of at city sites).

165. Plaintiffs have observed needles in and around Jose Coronado Playground, as well as public urination and public intoxication where individuals loiter throughout the day and interfere with the quiet enjoyment of the neighborhood.

166. As a municipality, Defendant has an affirmative "duty to keep sidewalks in safe condition [and] is directly liable to pedestrians for failing to correct a dangerous condition of which it had notice. . . ." *Peters v. City & Cnty. of San Francisco*, 41 Cal. 2d 419, 429 (1953) *superseded on other grounds by statute as noted by DiCampli-Mintz v. Cnty. of Santa Clara*, 55 Cal. 4th 983, 997 n.11 (2012). *See also City of Chicago v. Robbins*, 67 U.S. 418, 422, 17 L. Ed. 298 (1862) ("It is well settled that a municipal corporation having the exclusive care and control of the streets, is obliged to see that they are kept safe for the passage of persons and property, and to abate all nuisances that might prove dangerous; and if this plain duty is neglected, and any one is injured, it is liable for the damages sustained.").

167. "It is not relieved of its responsibility in this regard merely because the condition was created or maintained" by a third party who may also be liable. *Peters*, 41 Cal. 2d at 429.

168. Further, as possessor of San Francisco's public land, Defendant has a duty to abate and not contribute to nuisances found thereon. The California Civil Code provides that "[e]very successive owner of property who neglects to abate a continuing nuisance upon, or in the use of, such property, created by a former owner, is liable therefor in the same manner as the one who first created it." Cal. Civ. Code § 3483; *see also* Cal. Penal Code § 372 ("Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who willfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a misdemeanor.").

169. California follows the Restatement (Second) of Torts' approach to nuisance law. *Benetatos v. City of Los Angeles*, 235 Cal. App. 4th 1270, 1283 (2015); *City of Los Angeles v. San Pedro Boat Works*, 635 F.3d 440, 452 (9th Cir. 2011).

170. The Restatement provides that "[a] possessor of land upon which a third person carries on an activity that causes a nuisance is subject to liability for the nuisance if it is otherwise actionable," and if the possessor "knows or has reason to know that the activity is being carried on and that it is causing or will involve an unreasonable risk of causing the nuisance," and further if the possessor either "consents to the activity or fails to exercise reasonable care to prevent the nuisance." Restatement (Second) of Torts § 838 (1979)

171. California courts have recognized that "under the common law, a landowner's liability for a public nuisance could result from the failure to act as well as from affirmative conduct." *City of Modesto Redevelopment Agency v. Superior Ct.*, 119 Cal. App. 4th 28, 37, 13 Cal. Rptr. 3d 865, 871 (2004), *as modified on denial of reh'g* (June 28, 2004).

172. The existence of the nuisance is obvious and known to Defendant through its own inspections and citizen reports.

173. The Defendant has further consented to the nuisance activities on its lands.

174. Alternatively, the Defendant has failed to take reasonable steps to prevent the nuisance.

175. Defendant has acted unlawfully by failing to satisfy its affirmative duty to maintain the safe condition of San Francisco's public rights-of-way and parks as described herein.

176. And under the theories of liability offered by the Restatement (Second) of Torts, Defendant has also broken the law by abdicating its responsibility to prevent nuisances on the public land it possesses.

177. Defendant has also failed to enforce numerous state laws and city ordinances that prohibit the creation, expansion, operation, and/or maintenance of nuisances.

178. The California Penal Code prohibits individuals from lodging "in any building, structure, vehicle, or *place*, whether public or private, without the permission of the owner or person entitled to the possession or in control of it." Cal. Penal Code § 647(e) (emphasis added).

179. San Francisco's Police Code prohibits "wilfully [sic] and substantially obstruct[ing] the free passage of any person or persons on any street, sidewalk, passageway or other public place." S. F. Police Code § 22(a).

180. The Police Code also forbids "any person [from] deposit[ing] or caus[ing] to be deposited any human urine or feces upon any public or private highway or road . . . or upon any private property without the consent of the owner, or in or upon any public property other than property designated or set aside for that purpose." *Id.* § 153.

181. The Police Code further proscribes "sit[ting] or l[ying] down upon a public sidewalk" between the hours of 7:00 a.m. and 11:00 p.m. *Id.* § 168(b).

182. San Francisco's Health Code further prohibits "upon any premises or real property . . . any public nuisance." S.F. Health Code § 581(a). The code lists as nuisances the accumulation of garbage, as well as anything contaminated with pests or human or animal wastes. *Id.* § 581(a).

183. A person may bring an action for public nuisance if the nuisance "is specially injurious to himself . . . ." Cal. Civ. Code § 3493.

184. Because of their proximity to the nuisance, all Plaintiffs have been damaged in a way specially injurious to themselves.

185. Plaintiffs seek injunctive relief to order Defendant to abate the nuisance.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the following:

A. That judgment be rendered in favor of Plaintiffs and against Defendant on all counts alleged in this complaint.

B. That judgment be entered declaring the public rights-of-way on Shotwell Street between 19th and 21st Streets to be a public and private nuisance.

C. That a permanent injunction be entered requiring Defendant to undertake remedial measures to mitigate the effects of the Defendant's past and ongoing violations of law in permitting public and private nuisances on its property on Shotwell Street between 19th and 21st Streets. At a minimum, an injunction must ensure that the Defendant remediates, maintains, and clears Shotwell Street between 19th and 21st Streets of prostitution and sex-trafficking activities.

D. That judgment be entered declaring the public rights-of-way in front of Jose Coronado Playground/Park to be a public nuisance.

E. That a permanent injunction be entered requiring Defendant to undertake remedial measures to mitigate the effects of the Defendant's past and ongoing violations of law in permitting public nuisances on its property adjoining the Jose Coronado Playground/Park. At a minimum, an injunction must ensure that the Defendant

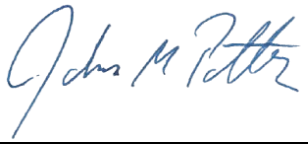
remediates, maintains, and clears the Park as well as the perimeter of adjoining streets of publicly intoxicated loiterers and campers, and of drug use and drug paraphernalia.

F. Reasonable attorneys' fees, expert expenses, and costs, as provided by law.

G. Such other relief as the Court finds just and proper.

DATED: August 27, 2024

QUINN EMANUEL URQUHART & SULLIVAN, LLP

By 

John M. Potter
Attorneys for Plaintiffs

VERIFICATION

Verification of Pleading (Code Civ. Proc., § 446)
Declaration under Penalty of Perjury Form (Code Civ. Proc., §§ 446, 2015.5)

by Party

CASE TITLE Ayman Farahat, Joyce Ferman, David Hall, David Quinby, and Harshil Ved v. City and County of San Francisco

I, Ayman Farahat, declare:
(Name)

I am a plaintiff in the above-entitled matter.

I have read the foregoing complaint and know the contents thereof.

The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe it to be true.

Executed on 08/08/2024, 2024, at 1:42 p.m.
San Francisco County, California.

I declare (or certify) under penalty of perjury that the foregoing is true and correct.

Ayman Farahat
(Signature of Party)

VERIFICATION

Verification of Pleading (Code Civ. Proc., § 446)
Declaration under Penalty of Perjury Form (Code Civ. Proc., §§ 446, 2015.5)

by Party

CASE TITLE Ayman Farahat, Joyce Ferman, David Hall, David Quinby, and Harshil Ved v. City and County of San Francisco

I, Joyce Ferman, declare:
(Name)

I am a plaintiff in the above-entitled matter.

I have read the foregoing complaint and know the contents thereof.

The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe it to be true.

Executed on 8/8/24, 2024, at san francisco County, California.

I declare (or certify) under penalty of perjury that the foregoing is true and correct.

joyceferman
(Signature of Party)

VERIFICATION

Verification of Pleading (Code Civ. Proc., § 446)
Declaration under Penalty of Perjury Form (Code Civ. Proc., §§ 446, 2015.5)

by Party

CASE TITLE Ayman Farahat, Joyce Ferman, David Hall, David Quinby, and Harshil Ved v. City and County of San Francisco

I, David Hall, declare:
(Name)

I am a plaintiff in the above-entitled matter.

I have read the foregoing complaint and know the contents thereof.

The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe it to be true.

Executed on August 16, 2024, at San Francisco County, California.

I declare (or certify) under penalty of perjury that the foregoing is true and correct.

David Hall
(Signature of Party)

VERIFICATION

Verification of Pleading (Code Civ. Proc., § 446)
Declaration under Penalty of Perjury Form (Code Civ. Proc., §§ 446, 2015.5)

by Party

CASE TITLE Ayman Farahat, Joyce Ferman, David Hall, David Quinby, and Harshil Ved v. City and County of San Francisco

I, David Quinby, declare:
(Name)

I am a plaintiff in the above-entitled matter.

I have read the foregoing complaint and know the contents thereof.

The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe it to be true.

Executed on 8/12, 2024, at SAN FRANCISCO County, California.

I declare (or certify) under penalty of perjury that the foregoing is true and correct.

(Signature of Party)

VERIFICATION

Verification of Pleading (Code Civ. Proc., § 446)
Declaration under Penalty of Perjury Form (Code Civ. Proc., §§ 446, 2015.5)

by Party

CASE TITLE Ayman Farahat, Joyce Ferman, David Hall, David Quinby, and Harshil Ved v. City and County of San Francisco

I, Harshil Ved, declare:
(Name)

I am a plaintiff in the above-entitled matter.

I have read the foregoing complaint and know the contents thereof.

The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe it to be true.

Executed on August 16th, 2024, at San Francisco County, California.

I declare (or certify) under penalty of perjury that the foregoing is true and correct.

HV

(Signature of Party)